

# EXHIBIT 3

## **AFFIDAVIT**

State of Indiana

County of Hamilton

NAME OF INSURED: CARSON MADRONA COMPANY, LLC  
ATTN: BILL NEIMAN

POLICY NUMBER: ESA 56862638

POLICY DATES: 08-31-2015 TO 08-31-2016

Alex Emerton, archivist of

American Fire and Casualty Company has compared the attached copies of the insurance policy number listed above and its endorsements with the original records of the policy of insurance and endorsements contained in the Company's files and that the same is a true and exact recital of all the provisions in the said original policy and endorsements attached thereto.



Alex Emerton  
Policy Copy Archivist

October 5, 2022



## Policyholder Information

### Named Insured & Mailing Address

CARSON MADRONA COMPANY, LLC  
ATTN: BILL NEIMAN  
9440 SANTA MONICA BLVD 610  
BEVERLY HILLS, CA 90210

### Agent Mailing Address & Phone No.

(818) 933-2700  
MOMENTOUS INSURANCE BROKERS INC  
5990 SEPULVEDA BLVD STE 550  
VAN NUYS, CA 91411-2536

### Dear Policyholder:

We know you work hard to build your business. We work together with your agent, **MOMENTOUS INSURANCE BROKERS INC (818) 933-2700** to help protect the things you care about. Thank you for selecting us.

Enclosed are your insurance documents consisting of:

- Excess Liability

To find your limits of insurance and premium please refer to your Declarations page(s). Please refer to your policy for specific coverages.

If you have any questions or changes that may affect your insurance needs, please contact your Agent at (818) 933-2700



### Reminders

- Verify that all information is correct
- If you have any changes, please contact your Agent at (818) 933-2700
- In case of a claim, call your Agent or 1-800-362-0000

### You Need To Know

- CONTINUED ON NEXT PAGE

To report a claim, call your Agent or 1-800-362-0000

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THIS IS  
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**You Need To Know - continued**

- **NOTICE(S) TO POLICYHOLDER(S)**

The Important Notice(s) to Policyholder(s) provide a general explanation of changes in coverage to your policy. The Important Notice(s) to Policyholder(s) is not a part of your insurance policy and it does not alter policy provisions or conditions. Only the provisions of your policy determine the scope of your insurance protection. It is important that you read your policy carefully to determine your rights, duties and what is and is not covered.

FORM NUMBER	TITLE
NP 73 12 01 15	Terrorism Insurance Premium Disclosure And Opportunity To Reject
NP 91 89 02 13	Important Information Consumer Affairs Policyholder Notice
NP 91 91 02 13	Important Policyholder Information Concerning Billing Practices - California

- This policy will be direct billed. You may choose to combine any number of policies on one bill with your billing account. Please contact your agent for more information.

09/09/2015

CARSON MADRONA COMPANY, LLC  
 ATTN: BILL NEIMAN  
 9440 SANTA MONICA BLVD 610  
 BEVERLY HILLS, CA 90210

ESA (16) 56 86 26 38  
 From 08/31/2015 To 08/31/2016

(818) 933-2700  
 MOMENTOUS INSURANCE BROKERS INC  
  
 5990 SEPULVEDA BLVD STE 550  
 VAN NUYS, CA 91411-2536

### TERRORISM INSURANCE PREMIUM DISCLOSURE AND OPPORTUNITY TO REJECT

**This notice contains important information about the Terrorism Risk Insurance Act and its effect on your policy. Please read it carefully.**

#### **THE TERRORISM RISK INSURANCE ACT**

The Terrorism Risk Insurance Act, including all amendments ("TRIA" or the "Act"), establishes a program to spread the risk of catastrophic losses from certain acts of terrorism between insurers and the federal government. If an individual insurer's losses from certified acts of terrorism exceed a specified deductible amount, the government will reimburse the insurer for a percentage of losses (the "Federal Share") paid in excess of the deductible, but only if aggregate industry losses from such acts exceed the "Program Trigger". An insurer that has met its insurer deductible is not liable for any portion of losses in excess of \$100 billion per year. Similarly, the federal government is not liable for any losses covered by the Act that exceed this amount. If aggregate insured losses exceed \$100 billion, losses up to that amount may be pro-rated, as determined by the Secretary of the Treasury.

The Federal Share and Program Trigger by calendar year are:

Calendar Year	Federal Share	Program Trigger
2015	85%	\$100,000,000
2016	84%	\$120,000,000
2017	83%	\$140,000,000
2018	82%	\$160,000,000
2019	81%	\$180,000,000
2020	80%	\$200,000,000

#### **MANDATORY OFFER OF COVERAGE FOR "CERTIFIED ACTS OF TERRORISM" AND DISCLOSURE OF PREMIUM**

TRIA requires insurers to make coverage available for any loss that occurs within the United States (or outside of the U.S. in the case of U.S. missions and certain air carriers and vessels), results from a "certified act of terrorism" AND that is otherwise covered under your policy.

A "certified act of terrorism" means:

[A]ny act that is certified by the Secretary [of the Treasury], in consultation with the Secretary of Homeland Security, and the Attorney General of the United States.

(i) to be an act of terrorism;

- (ii) to be a violent act or an act that is dangerous to
  - (I) human life;
  - (II) property; or
  - (III) infrastructure;
- (iii) to have resulted in damage within the United States, or outside of the United States in the case of
  - (I) an air carrier (as defined in section 40102 of title 49, United States Code) or United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States); or
  - (II) the premises of a United States mission; and
- (iv) to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

#### **REJECTING TERRORISM INSURANCE COVERAGE - WHAT YOU MUST DO**

We have included in your policy coverage for losses resulting from "certified acts of terrorism" as defined above.

THE PREMIUM CHARGE FOR THIS COVERAGE APPEARS ON THE DECLARATIONS PAGE OF THE POLICY AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT. If we are providing you with a quote, the premium charge will also appear on your quote as a separate line item charge.

IF YOU CHOOSE TO REJECT THIS COVERAGE, PLEASE CHECK THE BOX BELOW, SIGN THE ACKNOWLEDGEMENT, AND RETURN THIS FORM TO THE ADDRESS BELOW: **Please ensure any rejection is received within (30) days of the effective date of your policy.**

Before making a decision to reject terrorism insurance, refer to the Underlying Coverage Requirement located at the end of this Notice.

☐ I hereby reject this offer of coverage. I understand that by rejecting this offer, I will have no coverage for losses arising from a "certified acts of terrorism" and my policy will be endorsed accordingly.

Policyholder/Applicant's Signature

Print Name

Date Signed

Named Insured

Policy Number

CARSON MADRONA COMPANY, LLC  
ATTN: BILL NEIMAN

ESA (16) 56 86 26 38

Policy Effective/Expiration Date

From 08/31/2015 To 08/31/2016

#### **UNDERLYING COVERAGE REQUIREMENT**

This policy will apply to Terrorism Coverage only in excess of the total amounts stated as the applicable limits of the underlying policies listed in the Schedule of Underlying Insurance and the applicable limits of any other insurance providing coverage to you during the Policy Period.

If you fail to comply with this Underlying Coverage Requirement and you do not maintain your underlying limits as scheduled, we will only be liable to the same extent that we would have been had you fully complied with this requirement.

#### **IF YOU REJECTED THIS COVERAGE, PLEASE RETURN THIS FORM TO:**

Attn: Commercial Lines Division - Terrorism  
P.O. Box 66400  
London, KY 40742-6400

**The summary of the Act and the coverage under your policy contained in this notice is necessarily general in nature. Your policy contains specific terms, definitions, exclusions and conditions. In case of any conflict, your policy language will control the resolution of all coverages questions. Please read your policy carefully.**

If you have any questions regarding this notice, please contact your agent.

**IMPORTANT INFORMATION****Consumer Affairs - California**

Because of the complicated nature of the insurance business, there may be times when you will have questions regarding your coverage or the premium charged, or a problem may occur with your policy. If this occurs we urge you to contact either your agent or broker to answer your question or resolve your problem. However, if you are unable to receive a satisfactory answer or resolution to your problem, please contact us directly:

American Fire and Casualty Company  
Ohio Security Insurance Company  
The Ohio Casualty Insurance Company  
West American Insurance Company

1-800-688-8661

If you are still not satisfied, you may contact the following State Agency:

California Department of Insurance  
300 South Spring Street  
Los Angeles, CA 90013

Toll Free Number: 1-800-927-HELP (Calif. only)

## IMPORTANT POLICYHOLDER INFORMATION CONCERNING BILLING PRACTICES - CALIFORNIA

**Dear Valued Policyholder:** This insert provides you with important information about our policy billing practices that may affect you. Please review it carefully and contact your agent if you have any questions.

**Premium Notice:** We will mail you a policy Premium Notice separately. The Premium Notice will provide you with specifics regarding your agent, the account and policy billed, the billing company, payment plan, policy number, transaction dates, description of transactions, charges/credits, policy amount balance, minimum amount, and payment due date. This insert explains fees that may apply to and be shown on your Premium Notice.

### Available Premium Payment Plans:

- **Annual Payment Plan:** When this plan applies, you have elected to pay the entire premium amount balance shown on your Premium Notice in full. No installment billing fee applies when the Annual Payment Plan applies.
- **Installment Payment Plan:** When this plan applies, you have elected to pay your policy premium in installments (e.g.: quarterly or monthly installments - Installment Payment Plans vary by state). As noted below, an installment fee may apply when the Installment Payment Plan applies.

The Premium Payment Plan that applies to your policy is shown on the top of your Premium Notice. Please contact your agent if you want to change your Payment Plan election.

**Installment Payment Plan Fee:** If you elected to pay your premiums in installments using the Installment Premium Payment Plan, an installment billing fee applies to each installment bill. The installment billing charge will not apply, however, if you pay the entire balance due when you receive the bill for the first installment. Because the amount of the installment charge varies from state to state, please consult your Premium Notice for the actual fee that applies.

**Dishonored Payment Fee:** Your financial institution may refuse to honor the premium payment withdrawal request you submit to us due to insufficient funds in your account or for some other reason. If that is the case, and your premium payment withdrawal request is returned to us dishonored, a payment return fee will apply. Because the amount of the return fee varies from state to state, please consult your Premium Notice for the actual fee that applies.

**Late Payment Fee:** If we do not receive the minimum amount due on or before the date or time the payment is due, as indicated on your Premium Notice, you will receive a policy cancellation notice effective at a future date that will also reflect a late payment fee charge. Issuance of the cancellation notice due to non-payment of a scheduled installment(s) may result in the billing and collection of all or part of any outstanding premiums due for the policy period. Late Payment Fees vary from state to state and are not applicable in some states.

**Special Note:** Please note that some states do not permit the charging of certain fees. Therefore, if your state does not allow the charging of an Installment Payment Plan, Dishonored Payment or Late Payment Fee, the disallowed fee will not be charged and will not be included on your Premium Notice.

**EFT-Automatic Withdrawals Payment Option:** When you select this option, you will not be sent Premium Notices and, in most cases, will not be charged installment fees. For more information on our EFT-Automatic Withdrawals payment option, refer to the attached policyholder plan notice and enrollment sheet.

### Schedule of Fees

Type of Fee	Fee Amount
Installment Payment Plan	
Non Recurring Payment Option	\$10.00
EFT-Automatic Withdrawals Payment Option	\$0.00
Dishonored Payment	\$20.00
Late Payment	\$25.00

Once again, please contact your agent if you have any questions about the above billing practice information.

Thank you for selecting us to service your insurance needs.



**Coverage Is Provided In:**

American Fire and Casualty Company - a stock company

Policy Number:

**ESA (16) 56 86 26 38**

**Excess Liability**  
**Policy Declarations**

Basis: Occurrence

**(ITEM 1) NAMED INSURED & MAILING ADDRESS****AGENT MAILING ADDRESS & PHONE NO.**

CARSON MADRONA COMPANY, LLC  
 ATTN: BILL NEIMAN  
 9440 SANTA MONICA BLVD 610  
 BEVERLY HILLS, CA 90210

(818) 933-2700  
 MOMENTOUS INSURANCE BROKERS INC  
 5990 SEPULVEDA BLVD STE 550  
 VAN NUYS, CA 91411-2536

**Named Insured Is:** LIMITED LIABILITY COMPANY**Named Insured Business Is:** PROPERTY OWNER**(ITEM 2) POLICY PERIOD**

From 08/31/2015 TO 08/31/2016 12:01 AM Standard Time at Insured Mailing Location

**(ITEM 3) PREMIUM CHARGES**

Explanation of Charges	DESCRIPTION	PREMIUM
	Excess Liability	REDACTED
	Certified Acts of Terrorism Coverage	\$175.00 REDACTED
	<i>Total Advance Charges</i>	REDACTED

*Note: This is not a bill*

BASIS OF PREMIUM: NON-AUDITABLE( X) AUDITABLE( )

**(ITEM 4) LIMITS OF INSURANCE**

DESCRIPTION	LIMIT
EACH OCCURRENCE	\$10,000,000
AGGREGATE (WHERE APPLICABLE)	\$10,000,000

THESE LIMITS OF INSURANCE APPLY IN EXCESS OF THE UNDERLYING LIMITS OF INSURANCE  
 INDICATED IN (ITEM 5) OF THE DECLARATIONS.

Servicing Office Central California  
 and Issue Date 09/09/15

Authorized Representative

**To report a claim, call your Agent or 1-800-362-0000****DS 70 22 01 08**

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Ohio Security-American Fire 00073

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**Coverage Is Provided In:**

American Fire and Casualty Company - a stock company

Policy Number:

**ESA (16) 56 86 26 38****(ITEM 5) SCHEDULE OF UNDERLYING INSURANCE:**

CARRIER, POLICY NUMBER AND PERIOD	TYPE OF COVERAGE	LIMITS OF INSURANCE
FIRST UNDERLYING INSURANCE OHIO SECURITY INSURANCE COMPANY	GENERAL LIABILITY	<b>\$1,000,000</b> EACH OCCURRENCE LIMIT
BLS (16) 56862638 08/31/2015 - 08/31/2016		<b>\$1,000,000</b> PERSONAL AND ADVERTISING INJURY LIMIT
		<b>\$2,000,000</b> GENERAL AGGREGATE LIMIT
		<b>\$2,000,000</b> PRODUCTS - COMPLETED OPERATIONS AGGREGATE LIMIT

**To report a claim, call your Agent or 1-800-362-0000**

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**Coverage Is Provided In:**

American Fire and Casualty Company - a stock company

Policy Number:

**ESA (16) 56 86 26 38****POLICY FORMS AND ENDORSEMENTS**

This section lists all the Forms and Endorsements for your policy. Refer to these documents as needed for detailed information concerning your coverage.

FORM NUMBER	TITLE
CE 65 17 04 99	Amendment of Defense Provision
CE 65 24 06 97	Excess Liability Coverage Form
CE 65 30 01 15	Caps On Losses From Certified Acts Of Terrorism
CE 65 87 06 97	Product Recall Exclusion
CE 65 90 12 07	Employment Related Practices Exclusion
CE 66 54 05 09	Recording And Distribution Of Material Or Information In Violation Of The Law Exclusion
CE 88 00 01 15	Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism
CE 88 03 12 02	War Liability Exclusion
CE 88 64 10 14	Access or Disclosure Of Confidential Or Personal Information And Data-Related - Liability with Limited Bodily Injury Exception Exclusion
CU 60 05 06 97	Named Insured
CU 61 58 08 11	California Changes - Cancellation and Nonrenewal
CU 64 87 10 05	Economic or Trade Sanctions Condition Endorsement

In witness whereof, we have caused this policy to be signed by our authorized officers.

Dexter Legg  
Secretary

Paul Condren  
President

To report a claim, call your Agent or 1-800-362-0000

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CE 65 17 04 99

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## AMENDMENT OF DEFENSE PROVISION

The following is added to III. **DEFENSE**:

- C. When there is no "underlying insurance" or other insurance available to you because of the exhaustion of all aggregate limits of insurance, we will assume charge of the investigation of any claim or defense of any suit, but only if such aggregate limits were exhausted solely by the actual payment of "loss". If we assume charge, we will do so at our own expense, but not after the limits of this policy are exhausted.

This endorsement does not change any other provision of the policy.

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## EXCESS LIABILITY COVERAGE FORM

There are provisions in this policy that restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured. The words "we," "us" and "our" refer to the Company providing this insurance. The word Insured means any person or organization qualifying as such in the "first underlying insurance." Other words and phrases that appear in quotation marks have special meaning and can be found in the **DEFINITIONS** Section or the specific policy provision where they appear.

In consideration of the payment of the premium and in reliance upon the statements in the Declarations we agree with you to provide the coverage as follows:

### INSURING AGREEMENTS

#### I. COVERAGE

We will pay on behalf of the Insured the amount of "loss" covered by this insurance in excess of the "Underlying Limits of Insurance" shown in Item 5. of the Declarations, subject to **INSURING AGREEMENT Section II., Limits of Insurance.** Except for the terms, conditions, definitions and exclusions of this policy, the coverage provided by this policy will follow the "first underlying insurance."

of the Declarations is the most we will pay for all "loss" that is subject to an aggregate limit provided by the "first underlying insurance." The aggregate limit applies separately and in the same manner as the aggregate limits provided by the "first underlying insurance," provided that all "underlying insurance" applies their aggregate limit in the same manner as the "first underlying insurance."

#### II. LIMITS OF INSURANCE

A. The Limits of Insurance shown in the Declarations and the rules below describe the most we will pay under the terms of this insurance regardless of the number of:

1. Insureds;
2. claims made or suits brought;
3. persons or organizations making claims or bringing suits.

B. The Limits of Insurance of this policy will apply as follows:

1. This policy applies only in excess of the "Underlying Limits of Insurance" shown in Item 5. of the Declarations.
2. The aggregate limit shown in Item 4.

3. Subject to **B.2.**, the occurrence limit stated in Item 4. of the Declarations is the most we will pay for all "loss" arising out of any one occurrence to which this policy applies.

4. Subject to Paragraphs **B.2.** and **B.3.** above, if the "Underlying Limits of Insurance" described in Item 5. of the Declarations are either reduced or exhausted solely by payment of "loss," such insurance provided by this policy will apply in excess of the reduced underlying limit or, if all underlying limits are exhausted, will apply as "underlying insurance" subject to the same terms, conditions, definitions and exclusions of the "first underlying insurance," except for the terms, conditions, definitions and exclusions of this policy.

However, we will not pay that portion of a "loss" that is within the "Underlying Limits of Insurance" which the Insured has agreed to fund by self-insurance or means other than insurance.

5. The limits of this policy apply separately to each consecutive annual period, and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations unless the policy period is extended after issuance for an additional period of less than 12 months. In that case the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### III. DEFENSE

- A. We will not be required to assume charge of the investigation of any claim or defense of any suit against you.
- B. We will have the right, but not the duty, to be associated with you or your underlying insurer or both in the investigation of any claim or defense of any suit which in our opinion may create liability on us for "loss." If we exercise such right, we will do so at our own expense, but not after the limits of this policy are exhausted.

### IV. EXCLUSIONS

This policy does not apply to:

- A. Any liability, including, but not limited to settlements, judgments, costs, charges, expenses, costs of investigations, or the fees of attorneys, experts, or consultants arising out of or related in any way, either directly or indirectly, to:
  1. asbestos, asbestos products, asbestos-containing materials or products, asbestos fibers or asbestos dust, including, but not limited to, manufacture, mining, use, sale, installation, removal, or distribution activities;
  2. exposure to testing for, monitoring of, cleaning up, removing, containing or treating of asbestos, asbestos pro-

ducts, asbestos-containing materials or products, asbestos fibers or asbestos dust; or

3. any obligation to investigate, settle or defend, or indemnify any person against any claim or suit arising out of or related in any way, either directly or indirectly, to asbestos, asbestos products, asbestos-containing materials or products, asbestos fibers or asbestos dust.

- B. Any liability, including, but not limited to settlements, judgments, costs, charges, expenses, costs of investigations, or the fees of attorneys, experts, or consultants arising out of or in any way related to:

1. the actual, alleged or threatened presence, discharge, dispersal, seepage, migration, release or escape of "pollutants," however caused;
2. any request, demand, or order that any Insured or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to or assess the effects of "pollutants." This includes demands, directives, complaints, suits, orders or requests brought by any governmental entity or by any person or group of persons;
3. steps taken or amounts incurred by a governmental unit or any other person or organization to test for, monitor, clean-up, remove, contain, treat, detoxify or neutralize or assess the effects of "pollutants."

This exclusion will apply to any liability, costs, charges or expenses, or any judgments or settlements, arising directly or indirectly out of pollution whether or not the pollution was sudden, accidental, gradual, intended, expected, unexpected, preventable or not preventable.

As used in this exclusion "pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including, but not limited to, smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste material.

Waste material includes materials which are intended to be or have been to be recycled, reconditioned or reclaimed.

- C. Any liability excluded by the Nuclear Energy Liability Exclusion attached to this policy.

## V. DEFINITIONS

- A. "First underlying insurance" means the policy or policies of insurance stated as such in Item 5. of the Declarations.
- B. "Loss" means those sums actually paid in the settlement or satisfaction of a claim which you are legally obligated to pay as damages after making proper deductions for all recoveries and salvage.
- C. "Underlying insurance" means "first underlying insurance" and all policies of insurance listed in Item 5. of the Declarations.
- D. "Underlying Limits of Insurance" means the total sum of the limits of all applicable "underlying insurance" stated in Item 5. of the Declarations, including self-insurance, or means other than insurance.

## VI. CONDITIONS

### A. Appeals

In the event you or any underlying insurer elects not to appeal a judgment in excess of the amount of the "Underlying Limits of Insurance," we may elect to appeal at our expense. If we do so elect, we will be liable for the costs and interest incidental to this appeal. In no event will this provision increase our liability beyond the applicable Limits of Insurance described in Section II. of this policy.

### B. Bankruptcy or Insolvency

The bankruptcy, insolvency or inability to pay of any Insured or the bankruptcy, insolvency or inability to pay of any of the underlying insurers will not relieve us from the payment of any claim or suit covered by this policy.

In the event of bankruptcy or insolvency of any underlying Insurer, the insurance afforded by this policy will not replace

such "underlying insurance," but will apply as if the "underlying insurance" was available and collectible.

## C. Changes

Notice to any agent or knowledge possessed by any agent or any other person will not effect a waiver or change in any part of this policy. This policy can only be changed by a written endorsement that becomes a part of this policy and that is signed by one of our authorized representatives.

## D. Cancellation

1. You may cancel this policy. You must mail or deliver advance written notice to us stating when the cancellation is to take effect.
2. We may cancel this policy. If we cancel because of nonpayment of premium, we must mail or deliver to you not less than ten (10) days advance written notice stating when the cancellation is to take effect. If we cancel for any other reason, we must mail or deliver to you not less than thirty (30) days advance written notice stating when the cancellation is to take effect. Mailing that notice to you at your mailing address shown in Item 1. of the Declarations will be sufficient to prove notice.
3. The policy period will end on the day and hour stated in the cancellation notice.
4. If we cancel, final premium will be calculated pro rata based on the time this policy was in force.
5. If you cancel, final premium will be more than pro rata; it will be based on the time this policy was in force and increased by our short rate cancellation table and procedure.
6. Premium adjustment may be made at the time of cancellation or as soon as practicable thereafter but the cancellation will be effective even if we have not made or offered any refund due you. Our check or our representative's



check, mailed or delivered, will be sufficient tender of any refund due you.

7. The first Named Insured in Item 1. of the Declarations will act on behalf of all other Insureds with respect to the giving and receiving of notice of cancellation and the receipt of any refund that may become payable under this policy.
8. Any of these provisions that conflict with a law that controls the cancellation of the insurance in this policy is changed by this statement to comply with the law.

#### E. First Named Insured Duties

The person or organization first named in Item 1. of the Declarations is responsible for the payment of all premiums. The first Named Insured will act on behalf of all other Named Insureds for the giving and receiving of notice of cancellation or the receipt of any return premium that may become payable.

We will be furnished a complete copy of the "first underlying insurance" described in Item 5. of the Declarations and any subsequently issued endorsements which may in any way affect this insurance.

#### F. Legal Actions Against Us

There will be no right of action against us under this insurance unless:

1. you have complied with all the terms of this policy; and
2. the amount you owe has been determined by settlement with our consent or by actual trial and final judgment.

This insurance does not give anyone the right to add us as a party in an action against you to determine your liability.

#### G. Maintenance of Underlying Insurance

During the period of this policy, you agree:

1. to keep the policies listed in Item 5. of the Declarations in full force and effect;
2. that the Limits of Insurance of the "underlying insurance" policies listed in Item 5. of the Declarations will be maintained except for any reduction or exhaustion of aggregate limits by payment of claims or suits for "losses" covered by "underlying insurance."

If you fail to comply with these requirements, we will only be liable to the same extent that we would have been had you fully complied with these requirements.

#### H. Notice of Occurrence

1. You must see to it that we are notified as soon as practicable of an occurrence which may result in a claim or suit which may involve this policy. To the extent possible, notice will include:
  - a. how, when and where the occurrence took place;
  - b. the names and addresses of any injured persons and witnesses;
  - c. the nature and location of any injury or damage arising out of the occurrence.
2. If a claim or suit against any Insured is reasonably likely to involve this policy you must notify us in writing as soon as practicable.
3. You and any other involved Insured must:
  - a. immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or suit;
  - b. authorize us to obtain records and other information;
  - c. cooperate with us in the investigation, settlement or defense of the claim or suit; and
  - d. assist us, upon our request, in the enforcement of any right against any person or organization which

may be liable to the Insured because of injury or damage to which this insurance may also apply.

4. If the "Underlying Limits of Insurance" are exhausted solely by payment of "loss," no Insured will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

#### **I. Other Insurance**

If other insurance applies to a "loss" that is also covered by this policy, this policy will apply excess of the other insurance. Nothing herein will be construed to make this policy subject to the terms, conditions and limitations of such other insurance. However, this provision will not apply if the other insurance is specifically written to be excess of this policy.

Other insurance includes any type of self-insurance or other mechanism by which an Insured arranges for funding of legal liabilities.

#### **J. Premium**

Unless otherwise provided, the premium for this policy is a flat premium and is not subject to adjustment except as provided herein or amended by endorsement. If any

additional premium charge is made to the "underlying insurance" during the policy period or if there is an increase in the risk assumed by us, our premium may be adjusted accordingly.

#### **K. Terms Conformed to Statute**

The terms of this policy which are in conflict with the statutes of the state where this policy is issued are amended to conform to such statutes.

If we are prevented by law or statute from paying on behalf of the Insured, then we will, where permitted by law or statute, indemnify the Insured.

#### **L. When "Loss" is Payable**

Coverage under this policy will not apply unless and until the Insured or the Insured's "underlying insurance" is obligated to pay the full amount of the "Underlying Limits of Insurance."

When the amount of "loss" has finally been determined, we will promptly pay on behalf of the Insured the amount of "loss" falling within the terms of this policy.

### **NUCLEAR ENERGY LIABILITY EXCLUSION**

This policy does not apply to:

#### **A. Any liability, injury or damage:**

1. with respect to which any Insured under the policy is also an Insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic, Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an Insured under any such policy but for its termination upon exhaustion of its Limits of Insurance; or

2. resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) a person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) any Insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

**B.** Any injury or "nuclear property damage" resulting from the "hazardous properties" of "nuclear material," if:

1. the "nuclear material" **(a)** is at any "nuclear facility" owned by, or operated by or on behalf of, any Insured or **(b)** has been discharged or dispersed therefrom;
2. the "nuclear material" is contained in "spent fuel" or "nuclear waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of any Insured; or
3. the injury or "nuclear property damage" arises out of the furnishing by any Insured of services, materials, parts of equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility," but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion **B.3.** applies only to "nuclear property damage" to such "nuclear facility" and any property therein.

**C.** As used in this exclusion:

1. "Hazardous properties" includes radioactive, toxic or explosive properties.
2. "Nuclear facility" means:
  - a. any "nuclear reactor";
  - b. any equipment or device designed or used for
    - (1) separating the isotopes of uranium or plutonium,
    - (2) processing or utilizing "spent fuel" or
    - (3) handling, processing or packaging "nuclear waste";
  - c. any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of any Insured at the premises where such equipment or device is located

consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

- d. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of, "nuclear waste," and includes the site on which any of the foregoing is located, all operations considered on such site and all premises used for such operations.
3. "Nuclear material" means "source material," "special nuclear material" or by-product material.
4. "Nuclear property damage" includes all forms of radioactive contamination of property.
5. "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.
6. "Nuclear waste" means any "nuclear waste" material **(a)** containing "by-product material" other than the tailings of "nuclear waste" produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and **(b)** resulting from the operation by any person or organization of any "nuclear facility" included within the definition of "nuclear facility" under Paragraph **C.2.a.** or **C.2.b.**
7. "Source material," "special nuclear material," and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.
8. "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor."

This endorsement does not change any other provision of the policy.

**In Witness Whereof**, we have caused this policy to be executed and attested, but this policy will not be valid unless countersigned by one of our duly authorized representatives, where required by law.

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**COMMERCIAL EXCESS LIABILITY  
CE 65 30 01 15**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

**EXCESS LIABILITY COVERAGE FORM**

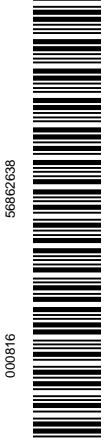
If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for injury or damage that is otherwise excluded under this policy.

This endorsement does not change any other provision of the policy.



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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **PRODUCT RECALL EXCLUSION**

The following exclusion is added to Section IV - **EXCLUSIONS:**

Any liability for any "loss," cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

1. "your product";
2. "your work"; or
3. "impaired property"

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

"Your product" means:

1. any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
  - a. you;
  - b. others trading under your name; or
  - c. a person or organization whose business or assets you have acquired; and
2. containers (other than vehicles) materials, parts or equipment furnished in connection with such goods or products.

"Your product" includes:

1. warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

2. the providing of or failure to provide warnings or instructions.

"Your product" does not include vending machines or other property rented to or located for the use of others but not sold.

"Your work" means:

1. work or operations performed by you or on your behalf; and
2. materials, parts or equipment furnished in connection with such work or operations.

"Your work" includes:

1. warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
2. the providing of or failure to provide warnings or instructions.

"Impaired property" means tangible property, other than "your product" or "your work," that cannot be used or is less useful because:

1. it incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
2. you have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

1. the repair, replacement, adjustment or removal of "your product" or "your work"; or
2. your fulfilling the terms of the contract or agreement.

This endorsement does not change any other provision of the policy

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

### EXCESS LIABILITY COVERAGE PART

The following is added to **SECTION IV - EXCLUSION:**

This policy does not apply to:

Any injury to:

1. A person arising out of any:
  - a. Refusal to employ that person;
  - b. Termination of that person's employment; or
  - c. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
2. The spouse, child, parent, brother or sister of that person as a consequence of injury to that person at whom any of the employment-related practices described in Paragraphs **1.a.**, **1.b.**, or **1.c.** above is directed.

This exclusion applies:

1. Whether the injury-causing event described in Paragraphs **1.a.**, **1.b.** or **1.c.** above occurs before employment, during employment or after employment of that person;
2. Whether the Insured may be liable as an employer or in any other capacity; and
3. To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This endorsement does not change any other provision of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## RECORDING AND DISTRIBUTION OF MATERIAL OR INFORMATION IN VIOLATION OF THE LAW EXCLUSION

This endorsement modifies insurance provided under the following:

### EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Section IV - Exclusions:

This insurance does not apply to:

Any liability arising directly or indirectly out of any action or omission that violates or is alleged to violate:

1. The Telephone Consumer Protection Act (TCPA) including any amendment of or addition to such law;
2. The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
3. The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
4. Any federal, state or local statute, ordinance or regulation, other than TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

This endorsement does not change any other provision of the policy.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## EXCLUSION OF PUNITIVE DAMAGES RELATED TO A CERTIFIED ACT OF TERRORISM

This endorsement modifies insurance provided under the following:

### EXCESS LIABILITY COVERAGE FORM

**A.** The following exclusion is added:

This insurance does not apply to:

#### **TERRORISM PUNITIVE DAMAGES**

Damages arising, directly or indirectly, out of a "certified act of terrorism" that are awarded as punitive damages.

**B.** The following definition is added:

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

**C.** The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for injury or damage that is otherwise excluded under this policy.

This endorsement does not change any other provision of the policy.



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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **WAR LIABILITY EXCLUSION**

This endorsement modifies insurance provided under the following:

### **EXCESS LIABILITY COVERAGE PART**

The following exclusion is added to **SECTION IV. - EXCLUSIONS:**

This policy does not apply to:

Any liability, however caused, arising, directly or indirectly, out of:

1. War, including undeclared or civil war; or
2. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
3. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

This endorsement does not change any other provision of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL  
INFORMATION AND DATA-RELATED LIABILITY - WITH  
LIMITED BODILY INJURY EXCEPTION EXCLUSION**

**A. The following exclusion is added to Section IV - EXCLUSIONS:**

This policy does not apply to:

Any liability, damages, loss, injury, demand, "claim" or "suit" arising out of:

1. Any access to or disclosure of any person's or organization's confidential or personal information, including but not limited to patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
2. The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses, fines, penalties (including but not limited to, fees or surcharges from affected financial institutions) or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph 1 or 2 above.

However, unless Paragraph 1 above applies, this exclusion does not apply to damages because of "bodily injury".

**B. For the purposes of this endorsement the following definition is added:**

"Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including but not limited to systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

This endorsement does not change any other provisions of the policy.

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**NAMED INSURED**

The Named Insured listed in Item 1 of the Declarations is changed to the following:

CARSON MADRONA COMPANY, LLC  
"first underlying insurance".

, as per the scheduled

This endorsement does not change any other provision of the policy.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **CALIFORNIA CHANGES - CANCELLATION AND NONRENEWAL**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA COVERAGE PART  
EXCESS LIABILITY COVERAGE PART

**A. Section VI - CONDITION D. Cancellation,** Paragraphs 2., 4. and 5. are deleted and replaced by the following:

**2. All policies in Effect For 60 days or Less**

If this policy has been in effect for 60 days or less, and is not a renewal of a policy we have previously issued, we may cancel this policy by mailing or delivering to the first Named Insured at the mailing address shown in the policy and to the producer of record, advance written notice of cancellation, stating the reason for cancellation, at least:

- a. 10 days before the effective date of cancellation if we cancel for:
  - (1) Nonpayment of premium; or
  - (2) Discovery of fraud or material misrepresentation by;
    - (a) Any insured or his or her representative in obtaining this insurance; or
    - (b) You or your representative in pursuing a claim under this policy.
- b. 30 days before the effective date of cancellation if we cancel for any other reason.

**All Policies in Effect For More Than 60 Days**

If this policy has been in effect for more than 60 days, or is a renewal of a policy we issued, we may cancel this policy only upon the occurrence, after the effective date of the policy, of one or more of the following:

- a. Nonpayment of premium, including payment due on a prior policy we issued and due during the current policy term covering the same risks.
- b. Discovery of fraud or material misrepresentation by;
  - (1) Any insured or his or her representative in obtaining this insurance; or
  - (2) You or your representative in pursuing a claim under this policy.
- c. A judgment by a court or an administrative tribunal that you have violated a California or Federal Law, having as one of its necessary elements an act which materially increases any of the risks insured against.
- d. Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards, by you or your representative, which materially increase any of the risks insured against.
- e. Failure by you or your representative to implement reasonable loss control requirements, agreed to by you as a condition of policy issuance, or which were conditions precedent to our use of a particular rate or rating plan, if that failure materially increases any of the risks insured against.

- f. A determination by the Commissioner of Insurance that the;
- (1) Loss of, or changes in, our reinsurance covering all or part of the risk would threaten our financial integrity or solvency; or
  - (2) Continuation of the policy would;
    - (a) Place us in violation of California law or the laws of that state where we are domiciled.
    - (b) Threaten our solvency.
- g. A change by you or your representative in the activities of property of the commercial or industrial enterprise, which results in a materially added, increased or changed risk, unless the added, increased or changed risk is included in the policy.
- h. In addition to the above reasons, umbrella and excess policies may be also cancelled for any of the following reasons:
- (1) material change in limits, type or scope of coverage, or exclusions in one or more of the underlying policies;
  - (2) cancellation or nonrenewal of one or more of the underlying policies where such policies are not replaced without lapse; or
  - (3) a reduction in financial rating or grade of one or more insurers, insuring one or more underlying policies based on evaluation obtained from a recognized financial rating organization.
4. If this policy is cancelled the refund, if any, will be computed on a pro rata basis. However, the the refund may be less than pro rata if the refund, which is based on the length of time the policy was in force, is less than the Minimum Premium as shown in Item 3. of the Declarations.

B. The following is added and supersedes any provisions to the contrary:

**Nonrenewal**

1. If we elect not to renew this policy, we will mail or deliver written notice stating the reason for nonrenewal to the Named Insured shown in the Declarations and to the producer of record, at least 60 days, but not more than 120 days, before the expiration or anniversary date.
2. We are not required to send notice of nonrenewal in the following situations:
  - a. If the transfer or renewal of a policy, without any changes in terms, conditions, or rates, is between us and a member of our insurance group.
  - b. If the policy has been extended for 90 days or less, provided that notice has been given in accordance with paragraph 1.
  - c. If you have obtained replacement coverage, or if the first Named Insured has agreed, in writing, within 60 days of the termination of the policy, to obtain that coverage.
  - d. If the policy is for a period of no more than 60 days and you are notified at the time of issuance that it will not be renewed.
  - e. If the first named Insured requests a change in the terms or conditions or risks covered by the policy within 60 days of the end of the policy period.
  - f. If we have made a written offer to the first Named Insured, in accordance with the timeframes shown in Paragraph 1., to renew the policy under changed terms or conditions or at an increase premium rate, when the increase exceeds 25%.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ECONOMIC OR TRADE SANCTIONS CONDITION ENDORSEMENT

The following is added to Section VI - CONDITIONS:

### Economic or Trade Sanctions

If coverage for a claim or suit under this policy is in violation of any United States of America economic or trade sanctions, including but not limited to, sanctions administered and enforced by the United States Treasury Department's Office of Foreign Assets Control ("OFAC"), then coverage for that claim or suit will be null and void.

This endorsement does not change any other provision of the policy.



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